



U.S. Department
of Veterans Affairs

Office of the General Counsel
Washington DC 20420

In Reply Refer To: ILG/024T
OGC Case #: 96500

April 5, 2018

Bryan King
Offit Kurman
Attorneys at Law
8000 Towers Crescent Drive
Suite 1500
Tysons Corner, VA 22182

Re: FOIA request dated December 1, 2015 submitted by Caring Hands Health Equipment & Supplies LLC – FOIA Tracking # 16-01682-F

Dear Mr. King:

This letter is in response to your March 6, 2018, appeal on behalf of your client, Caring Hands Health Equipment & Supplies LLC, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, from the failure of the Department of Veteran Affairs (VA) VISN 7 to respond to your clients' request for information.

By way of background in December 2015 your client submitted a FOIA request stating:

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EXHIBIT F

The undersigned hereby requests copies of all VA VISN 7 procurement and related supporting documents, executed and issued by the VA, during the period January 2015 to present, more particularly set forth below; to acquire Durable Medical Equipment (DME) services from any commercial or government organization(s), other than those DME services covered and acquired under the active VA IDIQ contract Number , VA247-15-D-0258 and VA247-15-D-0262 with Caring Hands Health Equipment & Supplies LLC.

1. Full and complete copies of all contracts, purchase orders, delivery orders, credit card or P-card orders, or other ordering documents, issued by any VISN7 acquisition organizations procuring DME services from January 2015 to present.
2. For each acquisition covered by 1. above; provide full and complete copies of all internal VA justification, supporting, and authorizations documents.
3. For each acquisition covered by 1. above; provide the name, mailing address, email address, and phone number of the VA purchasing or contracting employee(s) that evaluated, approved, executed, issued, and authorized payment for each of these acquisitions.
4. For each VA employee covered by 3. above; provide his or her supervisor's mailing address, email address, and phone number.

Your appeal advised that your client had not received a decision from VISN 7 and that the acknowledgment letter was not received until February 2018. With that February 12, 2108, acknowledgement letter, VISN 7 assigned this FOIA as tracking number 16-01682-F.

We considered your request under the provisions of the FOIA which provides that federal agencies must disclose information upon request, unless one or more of nine statutory exemptions applies. 5 U.S.C. § 552(b). The FOIA and VA's implementing regulations require that VA acknowledge receipt of the request under FOIA and respond to such within 20 business days. 38 C.F.R. § 1.556.

VA regulations implementing the FOIA also provide that the "FOIA Officer must maintain copies of records that are the subject of a pending request, appeal, or lawsuit under the FOIA. A copy of all records shall be provided promptly to the Office of the General Counsel upon request." 38 C.F.R. §1.560(b). On March 7, 2018, we contacted the VISN 7 FOIA Officer and requested a time-frame for completion of this FOIA request. To date VISN 7 has not been able to provide a firm date for completion of the FOIA and has not yet issued your client an Initial Agency Decision on the December 2015 request. Therefore, we cannot conclude that a reasonable search for responsive records was conducted or that any responsive documents are being appropriately withheld.

FOIA Officers should communicate with requesters whose request are assigned to a slower track and give the requester an opportunity to amend or narrow the scope of their requests. 38 C.F.R. § 1.556(c). Accordingly, we are directing VISN 7 to communicate directly with you within 10 business days of issuance of this

remand regarding the scope of your request, if needed, and to establish a reasonable timeframe for production of any documents responsive to your request that are not exempt from disclosure.

Ultimately, should you disagree with the response once the initial agency decision is rendered, you may renew your appeal by writing to the Office of General Counsel (024), 810 Vermont Avenue, NW, Washington, DC 20420. Please include the above referenced case numbers on any future communication in this regard.

Sincerely yours,

A handwritten signature in black ink, reading "Kenyatta McLeod-Poole". The signature is fluid and cursive, with the first name "Kenyatta" being more prominent and the last name "McLeod-Poole" following in a similar style.

Kenyatta McLeod-Poole
Acting Chief Counsel, Information Law Group

cc: Orlando Dunson – VA VISN 7 FOIA Officer